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UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

No. 17-76-CJC

13 Plaintiff,

GOVERNMENT'S *EX PARTE* APPLICATION
FOR FINDINGS OF EXCLUDABLE TIME
PERIODS PURSUANT TO SPEEDY TRIAL
14 ACT

15 v.

16 JEFFREY OLSEN,

17 Defendant.

18 Plaintiff United States of America, by and through its counsel
19 of record, the United States Attorney for the Central District of
20 California and Assistant United States Attorney Samuel J. Diaz,
21 hereby files this ex parte Application for findings of excludable
22 time periods pursuant to the Speedy Trial Act. Defendant opposes
23 this application.

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BACKGROUND

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2 1. The Indictment in this case was filed on July 6, 2017.
3 Defendant first appeared before a judicial officer of the court in
4 which the charges in this case were pending on July 11, 2017. The
5 Speedy Trial Act, 18 U.S.C. § 3161, originally required that the
6 trial commence on or before September 19, 2017.

7 2. On July 11, 2017, the Court set a trial date of September
8 5, 2017. (Dkt. 10.) On October 28, 2020, the Court dismissed the
9 Indictment with prejudice on Speedy Trial grounds. (Dkt. 105.) The
10 Ninth Circuit subsequently reversed the Court's order dismissing the
11 Indictment. The Ninth Circuit's mandate issued on May 16, 2022.
12 Under 18 U.S.C. § 3161(d)(2), trial must commence on or before July
13 25, 2022. The Court has yet to set a new trial date.

14 3. Defendant is released on bond pending trial.

15 4. Defendant opposes this application. Defendant contends
16 that the Court can and should dismiss this case for Speedy Trial Act
17 and Sixth Amendment violations that occurred in 2020. To the extent
18 the Court ultimately rules otherwise, Defendant agrees that 18 U.S.C.
19 § 3161(h)(1)(D) automatically excludes delay resulting from pretrial
20 motions, without any need for Court findings.

21 5. By this ex parte Application, the government moves for
22 findings that the time period of May 16, 2022 to the date that the
23 Court resolves defendant's motion, inclusive, should be excluded
24 pursuant to 18 U.S.C. § 3161(h)(1)(D), because it constitutes a delay
25 resulting from a pretrial motion, from the filing of the motion
26 through the prompt resolution of the motion.

DISCUSSION

Under 18 U.S.C. § 3161(d)(2), where a “defendant is to be tried upon an indictment or information dismissed by a trial court and reinstated following an appeal, the trial should commence within seventy days from the date the action occasioning the trial becomes final[.]” Here, the Ninth Circuit reversed this Court’s order dismissing the Indictment with prejudice and issued its mandate on May 16, 2022. Accordingly, under § 3161(d)(2), trial must commence on or before July 25, 2022.

On June 7, 2022, the Court held a status conference with the parties and granted defendant’s request to file a motion to dismiss on Speedy Trial grounds and set a briefing schedule. (Dkt. 122.)

By this ex parte Application, the government moves for findings that the time period of May 16, 2022 to the date that the Court resolves defendant’s motion, inclusive, should be excluded pursuant to 18 U.S.C. § 3161(h)(1)(D), because it constitutes a delay resulting from a pretrial motion, from the filing of the motion through the prompt resolution of the motion. Nothing in this stipulation shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods be excluded from the period within which trial must commence. Moreover, the same provisions and/or other provisions of the Speedy Trial Act may in the future authorize the exclusion of additional time periods from the period within which trial must commence.